stood, which lien shall be filed and bear interest as provided in section 10-373 of this Code. If the building or structure was not demolished, and the hearing official finds that the building, at the time of the hearing, continues to constitute a danger within the provisions of this article, the hearing official shall issue an order for its abatement as set out in division 4 of this article.

(d) The neighborhood protection official shall give notice to the record owners and lienholders of the building or structure, all persons having possession of any portion thereof, and all other persons who may have an interest in the building or structure, that a hearing will be held pursuant to the terms of this division concerning the actions taken by the director, and whether the building or structure constitutes or constituted a dangerous building. The notice shall set forth the specific conditions which created the dangerous condition or rendered the building or structure a dangerous building within the standards set forth in section 10-361 of this Code, the date, time and place of such hearing, that all persons having an interest in the building or structure may appear in person and/or be represented by an attorney and may present testimony and cross-examine all witnesses. The notice shall comply with the provisions set out in section 10-364 of this Code.
(Ord. No. 93-1570, § 1, 12-8-93; Ord. No. 94-674, § 31, 7-6-94; Ord. No. 98-613, § 37, 8-5-98)

Secs. 10-433—10-440. Reserved.

ARTICLE X. CLEANUP AFTER DEMOLITION OR REMOVAL OF STRUCTURES

Sec. 10-441. Required.

(a) Within 30 days after any building or structure is demolished or removed from any lot or tract of land:

(1) All debris must be removed from the property.

(2) All holes or depressions in the ground must be filled to grade level.

(3) All lumber, pipes and all other buildings materials must be removed from the property or stored in such a manner that they are not a hazard to safety and do not create a condition where rats are likely to live or mosquitoes likely to breed.

(4) All pipes and conduits must be removed from above grade and must be removed or sealed below grade.

(5) All piers, pilings, steps and other appurtenances must be removed above grade.

(b) Each owner and each person having control over the property on which the building or structure stood prior to removal or demolition is individually responsible for completing such work or causing such work to be completed.
(Code 1968, § 18-83; Ord. No. 76-1919, § 1, 11-9-76; Ord. No. 93-1570, § 2(b), 12-8-93)

Sec. 10-442. Report, inspection where work believed not completed.

It shall be the duty of all city employees to make a report in writing to the neighborhood protection official whenever such employee has reason to believe a building or structure has been demolished or removed from a lot of land and the work required by this article has not been completed. Upon receipt of such written report, the neighborhood protection official shall inspect the lot or tract.
(Code 1968, § 18-84; Ord. No. 76-1919, § 1, 11-9-76; Ord. No. 89-1079, § 16, 7-12-89; Ord. No. 91-1102, § 5, 7-31-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(b), 12-8-93; Ord. No. 94-674, § 32, 7-6-94; Ord. No. 98-613, § 38, 8-5-98)

Sec. 10-443. Notice to complete work.

Whenever it shall come to the knowledge of the neighborhood protection official or a hearing officer designated pursuant to article IX of this chapter that a building or structure has been demolished or removed and that the work required by this article has not been completed, the neighborhood protection official or hearing officer shall cause written notice to be given by personal service or by certified mail, return receipt requested, to the owner of the property or to any person having control over the property setting out the work required by this article which has

not been completed. In such notice, the neighborhood protection official or hearing officer shall order the owner of the property or person having control over the property to complete or cause to be completed all work required by this article within 30 days of service of such notice.
(Code 1968, § 18-84; Ord. No. 76-1919, § 1, 11-9-76; Ord. No. 89-1079, § 17, 7-12-89; Ord. No. 91-1102, § 5, 7-31-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(b), 12-8-93; Ord. No. 94-674, § 32, 7-6-94; Ord. No. 98-613, § 38, 8-5-98)

Sec. 10-444. Penalty.

Failure to comply with the requirements of section 10-441 or to comply with the order of the neighborhood protection official or a hearing officer given pursuant to this article shall be punishable by a fine of not less than $250.00, nor more than $2,000.00. Each day such work is not completed in violation of this article shall constitute a separate offense.
(Code 1968, § 18-86; Ord. No. 76-1919, § 1, 11-9-76; Ord. No. 89-1079, § 18, 7-12-89; Ord. No. 91-1102, §§ 5, 10, 7-31-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(b), 12-8-93; Ord. No. 94-674, § 32, 7-6-94; Ord. No. 98-613, § 38, 8-5-98)

Charter reference—Penalty for ordinance violation, Art. II, § 12.

Cross references—Assessment of fines against corporations, § 16-76; payment of fines, § 16-78; credit against fines for incarceration, § 35-6 et seq.

Secs. 10-445—10-450. Reserved.

ARTICLE XI. NEIGHBORHOOD NUISANCES

Sec. 10-451. Nuisances, generally.

(a) Whatever is dangerous to human health or welfare, or whatever renders the ground, the water, the air, or food a hazard to human health is hereby declared to be a nuisance.

(b) The following specific acts, conditions, and things are declared to constitute public nuisances and are hereby prohibited and made unlawful:

(1) The deposit or accumulation of any foul, decaying, or putrescent substance or other offensive matter in or upon any lot, street, or in or upon any public or private place in such a way as to become offensive or objectionable; the overflow of any foul liquids, or the escape of any gases, dusts, fumes, mists, and sprays to such an extent that the same, or any one of them, shall become, or be likely to become, hazardous to health or a source of discomfort to persons living or passing in the vicinity, or that the same shall by reason of offensive odors become a source of discomfort to persons living or passing in the vicinity thereof.

(2) A polluted well, or cistern, spring or stream, or the pollution of any body of water used for drinking purposes.

(3) The maintenance of any privy, vault or cesspool, except as provided in this Code.

(4) Keeping any building or room is such state of uncleanliness or the crowding of person in any building or room in such a manner as to endanger the health of the persons dwelling therein, or so that there shall be less than 400 cubic feet of air to each adult, and 150 cubic feet of air to each child under 12 years of age occupying such building or room. To the extent of any conflict between the requirements of this item and those established in section 10-331 of this Code, the more restrictive shall apply.

(5) Allowing cellars to be used as sleeping rooms.

(6) A building or portion of a building occupied as a dwelling which is not lighted and ventilated by means of at least one window, opening to the outer air, in each room, or any such building which is not provided with a plentiful supply of pure water.

(7) The accumulation of manure, unless it is in a properly constructed pit or receptacle.

(8) The maintenance, in a public place, of a roller towel for the use of more than one person.

(9) The slopping or feeding of cattle or other animals on distillery swill, unless the enclosure wherein such slopping or feeding is done is provided with means for preventing and removing the unsanitary conditions associated with such slopping or feeding.

(10) Permitting the existence of weeds, brush, rubbish, and all other objectionable, unsightly, and insanitary matter of whatever nature covering or partly covering the surface of any lots or parcels of real estate situated within the city; permitting such lots or parcels of real estate, as aforesaid, to have the surface thereof filled or partly filled with holes or be in such condition that the same holds or is liable to hold stagnant water therein, or from any other cause be in such condition as to be liable to cause disease or produce, harbor, or spread disease germs of any nature or tend to render the surrounding atmosphere unhealthy, unwholesome, or obnoxious.

Such lots or parcels of real estate in addition to those grounds within their respective boundaries shall be held to include all lots or parcels of ground lying and being adjacent to and extending beyond the property line of any such lots or parcels of real estate to the curbline of adjacent streets, where a curbline has been established, and 14 feet beyond the property line where no curbline has been established on adjacent streets, and also to the center of adjacent alleys.

The word "weeds" as herein used shall include all rank and uncultivated vegetable growth or matter which has grown to more than nine inches in height or which, regardless of height, is liable to become an unwholesome or decaying mass or a breeding place for mosquitoes or vermin. The word "brush" as herein used shall include all trees or shrubbery under seven feet in height which are not cultivated or cared for by person owning or controlling the premises. The word "rubbish" shall include all refuse, rejected tin cans, old vessels of all sorts, useless articles, discarded clothing and textiles of all sorts, and in general all litter and all other things usually included within the meaning of such term. The words "any and all other objectionable, unsightly, or insanitary matter of whatever nature" shall include all uncultivated vegetable growth, objects and matters not included within the meaning of the other terms as herein used, which are liable to produce or tend to produce an unhealthy, unwholesome or unsanitary condition to the premises within the general locality where the same are situated, and shall also include any species of ragweed or other vegetable growth which might or may tend to be unhealthy to individuals residing within the general locality of where the same are situated.

The provisions of this item (10) shall not be applicable to a "natural area," and it shall also constitute an affirmative defense to prosecution in any criminal proceeding that is initiated under this item (10) that the property or affected portion thereof is a "natural area" that is being maintained in accordance with a permit issued under section 32-10 of this Code and regulations issued thereunder, and further provided that:

a. The natural area is maintained and managed so that no weeds or debris are allowed to accumulate and create an imminent hazard to health or safety; and

b. The natural area is regularly mowed so as to prevent uncontrolled vegetation growth within ten feet of a public roadway and within five feet of a public sidewalk.

(11) Permitting the accumulation or collection of any water, stagnant, flowing, or otherwise, in which the mosquito breeds or which may become a breeding place for mosquitoes, unless such accumulation or collection of water is treated so as effectually to prevent such breeding.

The natural presence of well grown mosquito larvae, or of pupae, shall be evi-

dence that proper precautions have not been taken to prevent the breeding of mosquitoes.

(12) Permitting the detectible presence of urine or the presence of feces, vomit and other bodily fluids in or upon any property, including any sidewalk adjacent to any paved portion of a street abutting the property, that may be accessible to the public or in such a manner that the presence of any of the foregoing may be detected in the vicinity of the property.

(c) It shall be unlawful for any owner, lessee, occupant, or any agent, representative, or employee of any owner, lessee, or occupant or any other person having ownership, occupancy, or control of any land, or improvements thereon, to permit, allow, or suffer any condition to exist on such property if such condition is prohibited or made unlawful under the provisions of this section. It shall be an affirmative defense to prosecution under section 10-451(b)(12) of this Code that the detectible presence of urine or the presence of feces, vomit or other bodily fluids in or on any property is specifically authorized or permitted by law or ordinance.

(d) Except as provided below, whenever in this section an act is made or declared to be unlawful, the first violation by any person of any such provision shall be punishable by a fine of not less than $50.00 nor more than $1,000.00; the second violation by the same person of any such provision shall be punishable by a fine of not less than $100.00 nor more than $1,500.00; and the third and any subsequent violation by the same person of any such provision shall be punishable by a fine of not less than $200.00 nor more than $2,000.00. Provided, however, if a person is convicted of an offense under this section which offense is also a violation of the criminal provisions of any state law, such person shall be subject to the criminal penalties set out in state law. Each day any violation of this section continues shall constitute a separate offense.

The first violation of item 10-451(b)(12) of this Code shall be punishable by a fine of not less than $200.00, nor more than $1,000.00; the second violation by the same person of such provision shall be punishable by a fine of not less than $400.00, nor more than $1,500.00; the third and any subsequent violation by the same person of such provision shall be punishable by a fine of not less than $600.00, nor more than the maximum amount allowed by law.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-1570, § 2(c), 12-8-93; Ord. No. 94-83, §§ 1—3, 1-26-94; Ord. No. 03-537, § 1, 6-4-03)

Sec. 10-452. Notice to property owner.

Whenever the existence of any nuisance defined in this article, on any lots or parcels of real estate situated within the city, shall come to the knowledge of the neighborhood protection official, it shall be his duty to forthwith cause a written notice identifying such property to be issued to the person owning the same; provided that notice shall not be required prior to abatement of violations described in section 10-453(e). Any required notice shall be given in compliance with the applicable provisions of section 342.006 or section 342.008 of the Texas Health and Safety Code, as amended.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(c), 12-8-93; Ord. No. 94-674, § 33, 7-6-94; Ord. No. 95-993, § 2, 9-13-95; Ord. No. 98-613, § 39, 8-5-98)

Sec. 10-453. Abatement by city, generally.

(a) In the event of the failure, refusal, or neglect of the owner or occupant of any premises or property to timely cause such nuisance to be removed or abated in the manner and within the time provided in the notice given pursuant to section 10-452 of this Code, the neighborhood protection official shall cause the weeds, brush, rubbish, or other insanitary matter or condition constituting a nuisance to be promptly abated in a reasonable and prudent manner at the expense of the city. The neighborhood protection official shall carefully compile the cost of such work done and improvements made in abating such nuisance, and shall charge the same against the owner of the premises.

(b) The city council hereby finds and declares that the general overhead and administrative expense of inspection, locating owner(s), issuing

notice, reinspection, and ordering work done, together with all necessary incidents of same, require the reasonable charge of $25.00 for each lot, series of two or more adjacent and contiguous lots, or tract or parcel of acreage, and such minimum charge is hereby established and declared to be an expense of such work and improvement. Therefore, a minimum charge of $25.00 shall be assessed against each lot so improved under the terms of this section, but such sum of $25.00 is hereby expressly stated to be a minimum charge only, and shall have no application when the tabulated cost of the work done shall exceed such minimum charge.

(c) After determining the cost of the work, and after charging the same against the owner of the premises, the neighborhood protection official shall certify a statement of such expenses and shall file the same with the county clerk of the county in

notice, reinspection, and ordering work done, together with all necessary incidents of same, require the reasonable charge of $25.00 for each lot, series of two or more adjacent and contiguous lots, or tract or parcel of acreage, and such minimum charge is hereby established and declared to be an expense of such work and improvement. Therefore, a minimum charge of $25.00 shall be assessed against each lot so improved under the terms of this section, but such sum of $25.00 is hereby expressly stated to be a minimum charge only, and shall have no application when the tabulated cost of the work done shall exceed such minimum charge.

(c) After determining the cost of the work, and after charging the same against the owner of the premises, the neighborhood protection official shall certify a statement of such expenses and shall file the same with the county clerk of the county in which the premises or property is located. Upon filing such statement with the county clerk, the city shall have a privileged lien, inferior only to tax liens and liens for street improvements, upon the land described therein and upon which the improvements have been made, to secure the expenditure so made, plus ten percent interest.

(d) For any such expenditures and interest, as aforesaid, suit may be instituted by the city attorney and recovery and foreclosure had in the name of the city; the statement so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work or improvements. Upon payment of the full charges assessed against any property, pursuant to the procedure hereinabove set forth, the neighborhood protection official shall be authorized to execute, for and in behalf of the city, a written release of the lien heretofore mentioned, such written release to be on a form prepared and approved in each case by the legal department.

(e) Weeds or brush higher than 48 inches tall are declared to be an immediate danger to the health, life, or safety of all persons in the vicinity thereof, and the abatement of such weeds or brush may be carried out without prior notice as described in this subsection.

(1) The neighborhood protection official may cause such weeds and brush to be removed or abated, without notice. The expenses incurred shall be assessed and a lien created in the same manner as provided for other expenses under this section.

(2) Not later than the tenth day after the date of the removal or abatement, the neighborhood protection official shall give notice thereof to the owner of the lot or parcel in the manner required in section 342.008 of the Texas Health and Safety Code, as amended.

(3) The owner may request a hearing by notifying the neighborhood protection official within 30 days following the date of the abatement. The hearing shall be scheduled not later than 20 days after the date the request therefor is received and shall be conducted by a hearing official designated by the chief of police (the "director") for the purpose of determining whether the conditions qualified for abatement under the terms of this subsection. Unless notice is waived by the owner, the owner shall be provided written notice of the time and place of the hearing at least seven days prior thereto.

(4) At the hearing, the owner and the neighborhood protection official may present any evidence relevant to the proceedings, in accordance with reasonable rules adopted by the director and approved by the city attorney. If the hearing official finds that weeds or brush existed on the property in violation of this subsection at the time of the abatement, the hearing official shall issue an order so stating. If no violation of this subsection is found to have existed, a lien for applicable abatement expenses shall not be authorized under this subsection.

(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(c), 12-8-93; Ord. No. 94-674, § 33, 7-6-94; Ord. No. 95-993, § 3, 9-13-95; Ord. No. 98-613, § 39, 8-5-98; Ord. No. 04-1075, § 5, 10-20-04)

Sec. 10-454. City may contract for abatement.

The city shall have the right to award any quantity of work authorized under section 10-453

of this Code to a general contractor whose bid shall be accepted by the city council as the lowest and best secured bid for the doing of the work herein mentioned during a stipulated time not to exceed one year.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-1570, § 2(c), 12-8-93)

Sec. 10-455. Removal of weeds by city at request of property owner.

Any owners of vacant property in the city shall have the right to contract with the city to remove all such weeds and vegetation as may grow on such real estate by requesting in writing the neighborhood protection official so to do, and by agreeing to the charge to be paid therefor, not less than $25.00 to be paid therefor per lot, series of two or more adjacent and contiguous lots, or tract or parcel of acreage, to be charged against such property for each such removal of weeds and vegetation.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(c), 12-8-93; Ord. No. 94-674, § 34, 7-6-94; Ord. No. 98-613, § 40, 8-5-98)

Sec. 10-456. Summary abatement.

In addition to the remedies prescribed in this article, and cumulative thereof, if it is determined by the director or the health officer that any nuisance described in this article is likely to have an immediate adverse effect upon the public health or safety, then the director or the health officer may order such nuisance to be summarily abated by the city in a reasonably prudent manner, and a lien for the city's expenses related to such abatement shall be assessed in the manner provided in this article. Notice and the opportunity for a hearing shall be provided in the manner provided in section 10-453(e) of this Code.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-1570, § 2(c), 12-8-93; Ord. No. 95-993, § 4, 9-13-95)

Sec. 10-457. Authority to execute and release liens.

(a) The neighborhood protection official is hereby authorized to certify a statement of expenses and cause said statement and lien to be filed of record as provided for in this article. The neighborhood protection official is hereby authorized to execute releases on behalf of the city of any and all liens created under the provisions of this article. The neighborhood protection official shall have no right to execute such releases until satisfied that the debt or portion thereof secured by the lien and for which a release is requested has been paid in full to the city, and any such lien shall be released only insofar as it affects the property for which the debt secured thereby has been paid in full.

(b) A fee shall be imposed for each release of lien as specified in section 2-125 of this Code.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(c), 12-8-93; Ord. No. 94-674, § 35, 7-6-94; Ord. No. 98-613, § 41, 8-5-98)

Sec. 10-458. Remedies cumulative; civil enforcement; other action not limited.

The procedures set forth in this article are cumulative of all other remedies available to the city relating to the subject matter hereof. Specifically, the city attorney may institute any legal action to enforce this ordinance or enjoin or otherwise cause the abatement of any condition described in this article, as well as for the recovery of all expenses incurred in connection therewith, including without limitation administrative and legal expenses, attorneys fees and costs, and for civil penalties as provided by law.
(Ord. No. 94-83, § 4, 1-26-94)

Secs. 10-459—10-480. Reserved.

ARTICLE XII. RAT CONTROL

DIVISION 1. GENERALLY

Sec. 10-481. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Business building* means any structure, whether public or private, regardless of

the type of material used in its construction, located within the boundaries of the city that is adapted to occupancy for the transaction of business, whether vacant or occupied, for the rendering of professional services, for the display, sale, or storage of goods, wares, or merchandise, or for the performance of work or labor, including hotels, rooming houses, beer parlors, office buildings, public buildings, stores, markets, restaurants, grain elevators and abattoirs, warehouses, workshops and factories.

(2) *Opening* means and refers to any opening in the foundation, side, or walls of any business building, including roof, chim-

ney caves, grills, windows, sidewalk grates, and sidewalk elevators, through which a rat may enter.

(3) *Person* includes the owner, occupant, agent, individual, partnership, or corporation, or any other person in custody of any business building as defined herein.

(4) *Premises* includes all business buildings, outhouses, sheds, barns, garages, docks, wharves, piers, grain elevators and abattoirs, whether public or private, and any and all other structures used in connection with the operation of any business building as herein defined.

(5) *Rat harborage* means any condition found to exist under which rats may find shelter or protection, and shall include any defective construction which would permit the entrance of rats into any business building.

(6) *Rat stoppage* means a form of ratproofing to prevent the ingress of rats into or to buildings or other structures from the exterior, or from one building or structure to another. It consists essentially of the closing or protecting of all openings in exterior walls, foundation, roof, sidewalk grates, outer entrances, floors, drains, doors, and all other openings that may be reached by rats from the ground by climbing or by burrowing, with concrete, galvanized flat sheet-iron of 24-gauge or heavier, hardware cloth of not more than one-half-inch mesh in its greatest dimension of 19-gauge wire or heavier, or other type of ratproofing material impervious to rat gnawing, approved by the director of public health.

(7) *Ratproof building* means one constructed in such manner and of such materials as to prevent the ingress of rats.

(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-1570, § 2(d), 12-8-93)

Sec. 10-482. Dumping or accumulating garbage, rubbish, etc.

(a) It shall be unlawful for any person to dump or place on any land or on any water or waterway within the city any dead animal, butchers' offal, seafood, or any waste vegetables, animal matter, or any food products whatsoever.

(b) No garbage, rubbish, waste, or manure shall be placed, left, dumped, or permitted to accumulate or remain in any building or premises in the city so that same shall or may afford food or a harboring or breeding place for rats.

(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-1570, § 2(d), 12-8-93)

Sec. 10-483. Accumulations of lumber, boxes, etc.

It shall be unlawful for any person to permit to accumulate on any premises, improved, or unimproved, or on any open lot or alley in the city, any lumber, boxes, barrels, or similar material that may be permitted to remain thereon and that may be used as a harborage for rats, unless the same is placed on open racks and elevated not less than 18 inches above the ground, with a clear intervening space underneath, to prevent the harborage of rats. This section shall not apply when such lumber or other material is stored temporarily, for a period not to exceed 14 days, at an elevation designated by the neighborhood protection official.

(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(d), 12-8-93; Ord. No. 94-674, § 36, 7-6-94; Ord. No. 98-613, § 42, 8-5-98)

Sec. 10-484. Storage of feed and grain.

It shall be unlawful for any person to store any feed or grain for the use of animals or fowl, for other than commercial purposes, unless it is placed within a metal bin or container to prevent the feeding of rats.

(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-1570, § 2(d), 12-8-93)

Sec. 10-485. Treatment of rat burrows and other exterior harborage.

Rat burrows and other exterior harborage shall be treated under methods directed by the neighborhood protection official.

(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(d), 12-8-93; Ord. No. 94-674, § 37, 7-6-94; Ord. No. 98-613, § 43, 8-5-98)

Sec. 10-486. Penalty for article violations.

Whenever in this article an act is prohibited or is made or declared to be unlawful, or a misdemeanor, or the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision shall be punishable by a fine of not less than $100.00 nor more than $2,000.00; provided, however, if a person is convicted of an offense under this article which offense is also a violation of the criminal provisions of any state law, such person shall be subject to the criminal penalties set out in state law. Each day any violation of this article continues shall constitute a separate offense.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-1570, § 2(d), 12-8-93)

Secs. 10-487—10-495. Reserved.

DIVISION 2. BUSINESS BUILDINGS

Sec. 10-496. New construction to be ratproof.

It shall be unlawful for any person to construct within the corporate limits of the city any business building unless such building shall be ratproof.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-1570, § 2(d), 12-8-93)

Sec. 10-497. Rat stoppage and freedom from rats required.

Every business building, vacant or occupied, within the city limits shall be rat-stopped, freed of rats, and maintained in a rat-stopped and rat-free condition.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-1570, § 2(d), 12-8-93)

Sec. 10-498. Inspection of and orders to correct defects in existing buildings.

(a) The neighborhood protection official is authorized to make frequent and unannounced inspections of existing business buildings within the corporate limits of the city for the purpose of determining any rat infestation, and order, by written notice, either the owner, occupant, agent, or any other person in custody of any rat-infested business building to protect such business building by rat stoppage as provided for in this article, regardless of the need for the remodeling of or repairs to such business buildings, and further order that such other rat-control methods be employed as may be deemed necessary by the neighborhood protection official to maintain business buildings free from rats.

(b) The written notice or order shall specify the time, in no event less than 15 days, for completion of such work and improvements. Unless such work and improvements are completed in accordance with the written order or notice within the time so specified or within the time to which a written extension has been granted by the neighborhood protection official, the owner, occupant, agent, or other person in custody of the building shall be deemed guilty of a misdemeanor.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(d), 12-8-93; Ord. No. 94-674, § 38, 7-6-94; Ord. No. 98-613, § 44, 8-5-98)

Sec. 10-499. Inspections of new construction.

The neighborhood protection official is authorized to make inspections during the course of and upon completion of any construction, repairs, remodeling, or installation of rat-control measures to business buildings to ensure compliance with the provisions of this division, and no person shall interfere with or refuse to permit such inspection.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(d), 12-8-93; Ord. No. 94-674, § 38, 7-6-94; Ord. No. 98-613, § 44, 8-5-98)

Sec. 10-500. Closing building which is not rat-stopped or is rat-infested.

(a) The neighborhood protection official shall recommend to the city council that the city close each business building which is not rat-stopped, or which he finds to be rat-infested, to any occupancy or use until rats are exterminated or during the process of extermination. The city council shall cause the owner or occupant of such building to be notified by the city secretary of a hearing for

the closing of such building, which hearing shall be held by the city council at any time after the expiration of 15 days after the mailing of such notice of such hearing. All such buildings which are not rat-stopped may be closed by order of the city council after such hearing in each case.

(b) The city council shall hear evidence as to the condition of buildings in each case and the owner or occupant shall have the right to testify and introduce evidence and examine and cross examine witnesses. If the city council shall find that such building is not rat-stopped or is rat-infested, the city council shall, by ordinance, order the owner or occupant to close such building and cease using it for human occupancy until such time as owner or occupant shall prove to the city council that such building has been rat-stopped and is no longer rat-infested, and the city council has repealed the ordinance which ordered such building closed.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(d), 12-8-93; Ord. No. 94-674, § 38, 7-6-94; Ord. No. 98-613, § 44, 8-5-98)

Sec. 10-501. Duty of occupant when notified of rat infestation.

(a) Whenever the neighborhood protection official notifies the occupant of a business building, in writing, that there is evidence of rat infestation of the building, such occupant shall immediately institute anti-rat-infestation measures and shall continuously maintain such measures in a satisfactory manner until the premises are declared by the neighborhood protection official to be free of rat infestation. Unless such measures are undertaken within 15 days after receipt of notice, it shall be construed as a violation of the provisions of this division and the occupant shall be held responsible therefor. Any rat or rats caught or killed therein shall be removed daily and disposed of in a manner acceptable to the neighborhood protection official, and all traps reset and rebaited and other anti-rat-infestation measures shall be continued.

(b) Rats may also be destroyed by such means other than trapping as are approved by the neighborhood protection official, or by any authorized agency of the United States Public Health Service, or the state board of health.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(d), 12-8-93; Ord. No. 94-674, § 38, 7-6-94; Ord. No. 98-613, § 44, 8-5-98)

Sec. 10-502. Minimum requirements for applying rat stoppage.

(a) For the purpose of obtaining maximum rat stoppage at a minimum cost to the owner or occupant of business buildings or structures, the regulations prescribed in this section are set forth as minimum requirements for applying rat stoppage to all buildings or structures.

(b) The neighborhood protection official shall approve all materials used, the methods of installation, and standards of work.

(c) Solid sheet metal, expanded metal, and wire cloth specified in this section shall have a rust-resistant coating, preferably galvanized.

(d) All foundation wall ventilator openings shall be covered for their entire height and width with perforated sheet metal plates of a thickness not less than fourteen-gauge, or with expanded sheet metal of a thickness not less than eighteen-gauge, or with cast-iron grills or grates, or with any other material of sufficient strength and equal rat-resisting properties. The openings therein shall be small enough to prevent the ingress of rats, and in no instance shall be larger than one-half inch.

(e) All foundation and exterior wall openings, excluding those used for the purpose of ventilation, light, doors, and windows, such as those openings around pipes, electric cables, conduits, openings due to deteriorated walls, broken masonry, or concrete, shall be protected against the ingress of rats by closing such openings with cement mortar, concrete, or masonry, or close-fitting sheet metal or suitable size pipe flanges or other material with equal rat-resisting properties, which shall be securely fastened in place.

(f) All exposed edges of the lower eight inches of wooden doors and door jambs, serving as front, rear, or side entrances into business buildings, from the ground, basement, or cellar floors, and other doors accessible to rats, shall be protected against the gnawing of rats by covering such doors and jambs with solid sheet metal of not less than twenty-four-gauge thickness. The same material shall be used on door sills or thresholds, or such door sills or thresholds may be constructed of cement, stone, steel, or case iron.

Doors, door jambs, and sills of coal chutes and hatchways that are constructed of wood shall be covered with solid sheet metal of twenty-four-gauge or heavier, or they may be replaced with metal chutes of twenty-four-gauge or heavier, installed in such manner as will prevent the ingress of rats.

All doors on which metal flashing has been applied shall be properly hinged to provide for free swinging. When closed, doors shall fit snugly so that the maximum clearance between any door, door jambs, and sill shall not be greater than three-eighths of an inch.

Door jambs and sills constructed of metal, concrete, masonry, stone, or cement mortar, or cast iron and steel, when fitting closely to exclude rats, are not required to comply with this subsection.

(g) All screen doors, regardless of where located in or on a building or structure, which are exposed to the gnawing of rats and through which a rat may gain entrance to such building or structure, shall be protected by affixing hardware cloth over the entire length and width of the screen panels of such doors and shall, in addition, be flashed with flat sheet metal strips for the entire length and width of top and bottom rails and side stiles. All door openings not having screen doors, through which rats may gain entrance to a building or structure, shall have screen doors installed, and such screen doors shall be protected from the gnawing of rats as provided for in this division and shall be equipped with adequate closing devices so that the door will at all times be properly closed.

(h) All windows and other openings for the purpose of light or ventilation located in the exterior walls, foundation, roof, or eaves accessible to rats, or which may be subject to gnawing for the purpose of gaining ingress to a building, from the ground, climbing, or by burrowing into or under buildings from the exterior or from one building or structure to another, via wires, pipes, etc., shall be protected by placing over such opening for the entire width and length of the frame, a screen made of hardware cloth 19-gauge or heavier, such screen to be inserted in a frame made of galvanized flat sheet iron of not less than 24-gauge in thickness. All such screens shall be securely riveted together and affixed as herein provided with metal screws. All such screens installed shall be portable in application. All openings accessible to rats by way of exposed pipes, wires, conduits, or structural appurtenances shall be closed and protected with guards of galvanized twenty-four-gauge flat sheet metal so as to completely block rat usage in, through or around such pipes, wires, conduits, or structural appurtenances. All guards shall be affixed in such manner as to be portable in application so as to permit necessary repairs to and not interfere with the continuity of such service, for which such pipes, wires, conduits, or structural appurtenances shall have been installed.

(i) Unless otherwise specified, all hardware cloth to be used for the purpose of rat stoppage, as referred to in this division, shall be of not less than 19-gauge wire and shall have a mesh of not greater than one-half inch. All solid flat sheet metal used for rat stoppage purposes, as referred to in this division, shall be of not less than 24-gauge in thickness and shall have a rust-resistant coating, preferably galvanized.

(j) Light wells with windows in exterior walls that are located below the outside ground level shall be protected from the ingress of rats by one of the following methods:

(1) Installing over light wells cast-iron or steel grills or steel gratings, or other material of equal strength and rat-resisting properties, with opening in grills or gratings not to exceed one-half inch in shortest dimension.

(2) Installing securely to and completely covering existing metal grills that are broken or have openings larger than one-half inch in shortest dimension, or otherwise defective, with expanded metal of 18-gauge or heavier, having openings not greater than one-half inch in shortest dimension, or with 16-gauge or heavier wire cloth with one-half inch mesh.

(3) At the option of the owner, the opening in the wall of the building below the grate may be entirely closed with brick or concrete or partially closed and the remaining open space covered with 19-gauge or heavier wire cloth with mesh not to exceed one-half inch.

(k) Business buildings constructed on piers having wooden floor sills less than 12 inches above the surface of the ground shall have the intervening space between the floor sill and the ground protected against the ingress of rats by installing a curtain wall of solid masonry or reinforced concrete of not less than four inches in thickness and 18 inches in depth below the ground surface, with a shelf or beam four inches thick extending outward from the outside of the curtain wall eight inches.

All curtain walls installed under the provisions of this division shall provide ventilator openings of not less than two square feet for each 20 lineal feet of wall, where permissible.

All curtain walls and foundation wall ventilator openings shall be covered for their entire height and width with perforated sheet metal plates of a thickness of not less than 14-gauge or with expanded sheet metal of not less than 18-gauge or with hardware cloth of not less than 18-gauge wire, such hardware cloth to be inserted in frames of 24-gauge galvanized iron, cast-iron grills or grates or with concrete with any of the aforementioned materials set firmly therein. All openings in such wire cloth, expanded metal grills, grates, or perforated sheet metal shall have openings or mesh not to exceed one-half inch in greatest width. All ventilators in curtain walls shall be portable in application. Curtain walls as installed under the provisions of this division shall extend upward from the ground level to the first floor level of the building or structure, and shall meet with outside wood siding, and there shall be installed a protective sheathing between concrete and such outside wood siding. The top of the curtain wall shall be beveled outward from the building wall to prevent water from standing and shall be affixed so as to prevent water from seeping between the curtain wall and building wall.

(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(d), 12-8-93; Ord. No. 94-674, § 39, 7-6-94; Ord. No. 98-613, § 45, 8-5-98)

Sec. 10-503. Special requirements for curb and farmers' markets.

Curb or farmers' markets in which fruits or vegetables or any other products are exposed and offered for sale, on racks, stands, platforms, and in vehicles outside of business buildings, shall have floors paved with concrete or asphalt for the entire surface area of the market. Display racks, stands, or platforms on which fruit or vegetables or any other food products are displayed or offered for sale shall be of sufficient height and shall be kept at a distance of not less than 18 inches above the floor pavement and be so constructed that rats cannot harbor therein or thereunder.

(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-1570, § 2(d), 12-8-93)

Sec. 10-504. Protection against climbing rats.

(a) In order to protect business buildings from what is commonly called the climbing or roof rat, it shall be unlawful to permit fishing poles, ladders, or any other object that a rat could climb on in order to reach the roof of any business building, to lean against the side or walls of such business building.

(b) The owner of a business building shall also protect elevator shafts, fire escapes, and guy wires in such manner that rats will not be able to gain ingress into any business building.

(c) It shall be the duty of any person in charge of a business building to trim the branches of all trees extending over and against such building, and the same shall be cut and trimmed and kept trimmed and cut so that no part of any branch or

any part of such tree shall be closer than ten feet to any business building, and the tops of all trees shall be cut back ten feet from a line extending perpendicular from any exterior wall of a business building.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-1570, § 2(d), 12-8-93)

Sec. 10-505. Repairing breaks in rat stoppage.

The owner, agent, or occupant in charge of a rat-stopped building or structure shall maintain it in rat-stopped and rat-free condition, and repair all breaks or leaks that may occur in rat stoppage.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-1570, § 2(d), 12-8-93)

Sec. 10-506. Removing and failing to restore rat stoppage.

It shall be unlawful for the owner, agent, occupant, contractor, public utility company, plumber, or any other person to remove rat stoppage from any building or structure for any purpose and fail to restore the same in a satisfactory condition, or to make openings that are not closed or sealed against the entrance of rats.
(Ord. No. 91-1102, § 12, 7-31-91; Ord. No. 93-1570, § 2(d), 12-8-93)

Secs. 10-507—10-530. Reserved.

ARTICLE XIII. JUNKED VEHICLE ABATEMENT PROCEDURES

Sec. 10-531. Definitions.

As used in this article the words and terms defined in this section shall have the meanings ascribed, unless the context clearly indicates another meaning:

Antique vehicle means a passenger car or truck that is at least 25 years old.

Junked vehicle means a vehicle as defined in item (9) of section 621.001 of the Texas Transportation Code, that is self-propelled and:

(1) Does not have lawfully attached to it:
   a. an unexpired license plate; or
   b. a valid motor vehicle inspection certificate; and

(2) Is:
   a. wrecked, dismantled or partially dismantled, or discarded; or
   b. inoperable and has remained inoperable for more than:
      (i) 72 consecutive hours, if the vehicle is on public property; or
      (ii) 30 consecutive days, if the vehicle is on private property;

provided that the term "junked vehicle" shall not be construed to include a vehicle or vehicle part:

(1) That is completely enclosed within a building in a lawful manner and is not visible from the street or other public or private property, or

(2) That is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
   a. maintained in an orderly manner;
   b. not a health hazard; and
   c. screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

Motor vehicle collector means a person who:

(1) Owns one or more antique or special interest vehicles; and

(2) Acquires, collects, or disposes of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Special interest vehicle means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.
(Ord. No. 91-1303, § 2, 9-11-91; Ord. No. 93-1570, § 2(e), 12-8-93; Ord. No. 98-1251, § 1, 12-22-98; Ord. No. 02-1057, § 1, 11-13-02)

Sec. 10-532. Purpose.

(a) A junked vehicle or a part of a junked vehicle that is located in a place where it is visible from a public place or right-of-way is subject to removal under this article.

(b) Other than subsection (b) of section 10-534 of this Code, the provisions of this article are not penal. However, a proceeding under this article shall not be construed to preclude prosecution under section 683.073 of the Texas Transportation Code, or vice versa. This article does not affect the authority of a peace officer under law to authorize the immediate removal, as an obstruction to traffic, of a vehicle left on public property.

(c) All procedures under this article must be administered by regularly salaried, fulltime employees of the city, provided that contractors may be utilized to perform the work involved in actually removing a junked vehicle and the junked vehicle may be disposed of at a privately operated disposal site.
(Ord. No. 91-1303, § 2, 9-11-91; Ord. No. 93-1570, § 2(e), 12-8-93; Ord. No. 98-1251, § 2, 12-22-98)

Sec. 10-533. Investigation; notice.

(a) Upon receipt of information that a vehicle or a part of a vehicle is in such a condition and location that it may be subject to removal under this article the neighborhood protection official shall investigate the facts. In making a determination how long a vehicle or a part of a vehicle has remained inoperable the neighborhood protection official conducting the investigation may rely upon a sworn statement of a person working or residing near the place where the vehicle is situated, who has personal knowledge of the facts, provided that the person is willing to allow the affidavit to be disclosed to the vehicle owners/lienholders and to appear at the hearing, if requested. If it appears that the vehicle or part of a vehicle is in fact subject to removal hereunder the neighborhood protection official shall cause notice of a right to hearing to be given as provided in subsection (b).

(b) In each instance in which it is proposed to remove a vehicle or a part of a vehicle under this article not less than ten days' notice shall be given to the persons specified and in the manner specified in subsection (b) or (c), as applicable, of section 683.075 of the Texas Transportation Code.

(c) In the event that a hearing is timely requested upon the proposed removal of the vehicle or part of a vehicle it shall be conducted by the chief of police or a person designated by the chief of police. If the hearing officer determines that the vehicle or part of a vehicle is subject to removal hereunder he shall cause an order to be issued directing its removal. The order shall include the information specified in section 683.076 of the Texas Transportation Code.

(d) Once a proceeding for the abatement and removal of a junked vehicle has commenced, the subsequent relocation of the junked vehicle to another location in the city will have no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.
(Ord. No. 91-1303, § 2, 9-11-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(e), 12-8-93; Ord. No. 94-674, § 40, 7-6-94; Ord. No. 98-613, § 46, 8-5-98; Ord. No. 02-528, § 14h., 6-19-02; Ord. No. 02-1057, § 2, 11-13-02; Ord. No. 04-1075, § 6, 10-20-04)

Sec. 10-534. Disposal.

(a) In the event that a hearing is not timely requested or in the event that a hearing is timely requested and the hearing results in an order of disposal of the vehicle or part of a vehicle under this article, then the neighborhood protection official shall cause the junked vehicle to be removed to a disposal site.

(b) It shall be unlawful for any person to cause any junked vehicle removed under this article to be reconstructed or made operable after it has been removed.

(c) Each contract let for the removal and disposal of vehicles under this article shall require the contractor to account for and be responsible to the city for the destruction of each vehicle within a specified time and require that the vehicles be kept and disposed of in such a manner that they may not be reconstructed or made operable.

(d) The neighborhood protection official shall ensure that notice of the identification of each junked vehicle or part of a junked vehicle removed under this article is give to the Texas Department of Highways and Public Transportation not later than the fifth day following the removal of the vehicle as required under section 683.074 of the Texas Transportation Code.
(Ord. No. 91-1303, § 2, 9-11-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(e), 12-8-93; Ord. No. 94-674, § 40, 7-6-94; Ord. No. 98-613, § 46, 8-5-98)

Sec. 10-535. Fees.

(a) If the owner of a junked vehicle or the owner of property on which a junked vehicle or part of a vehicle is located requests a hearing in accordance with section 10-533 of this Code, and if the hearing officer determines that the vehicle or part of the vehicle is subject to removal, then the hearing officer is authorized to assess a fee in accordance with section 683.0765 of the Texas Transportation Code and section 54.044 of the Texas Local Government Code.

(b) In the event that a hearing is not conducted pursuant to section 10-533 of this Code, the city council hereby finds and declares that the general overhead and administrative expenses involved in the abatement of a junked vehicle or part of a vehicle require the reasonable charge of $200.00 for each junked vehicle or part of a vehicle. The neighborhood protection official shall charge such expenses, plus any costs incurred by the city for the removal and disposal of the junked vehicle or part of a vehicle, to the owner of the junked vehicle or part of a vehicle. If such owner cannot be located or fails to pay the full amount imposed within six months of the date of demand by the neighborhood protection official, then said official shall charge such costs and expenses to the owner of the property from which the junked vehicle or part of a junked vehicle is removed.

(c) No fee shall be imposed pursuant to this section if the owner of a junked vehicle timely complies with an order of a hearing officer or if such owner removes a junked vehicle within the time prescribed in the notice of the neighborhood protection official issued pursuant to section 10-533 of this Code.
(Ord. No. 03-780, § 1, 8-27-03)

Secs. 10-536—10-540. Reserved.

ARTICLE XIV. ABATEMENT OF UNAUTHORIZED VISUAL BLIGHT*

Sec. 10-541. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates a different meaning;

Owner means the record owner of the lot or parcel or other person specifically authorized in writing by the record owner to authorize the placement of any painting, scratching, writing or inscription upon the owner's property.

Unauthorized means without the consent of the owner or without authority of law, regulation or ordinance. Unless the owner proves otherwise, lack of consent will be presumed under circumstances tending to show (i) the absence of evidence of specific authorization of the visual blight by the owner, (ii) that the visual blight is inconsistent with the design and use of the subject property, or (iii) that the person causing the visual blight was unknown to the owner.

Visual blight means any unauthorized graffiti or any other unauthorized form of painting, scratching, writing or inscription, including without limitation, initials, slogans or drawings, regardless of

*Editor's note—Ord. No. 94-1163, § 2, adopted Nov. 2, 1994, added provisions designated as art. XIV, §§ 10-541—10-546. Since there already existed an art. XIV, former articles XIV and XV have been renumbered as articles XV and XVI, at the discretion of the editor.

the content or nature of the material that has been applied to any wall, building, fence, sign, or other structure or surface and is visible from any public property or right-of-way or is visible from the private property of another person.
(Ord. No. 94-1163, § 2, 11-2-94)

Sec. 10-542. Declaration; notice.

Visual blight is declared to be a public nuisance. Whenever the existence of visual blight on any lot or parcel of real estate situated within the city shall come to the knowledge of the neighborhood protection official, the neighborhood protection official shall forthwith cause a written notice identifying the visual blight and directing its removal to be sent to the owner of the property. The notice shall be sent in the manner provided for notices under article XI of this chapter; provided that the time allowed in the notice for abatement of the nuisance shall not be less than 30 days, and such notice shall further state that the owner is entitled to request a hearing to be held in the manner described in section 10-543 of this Code.
(Ord. No. 94-1163, § 2, 11-2-94; Ord. No. 98-613, § 47, 8-5-98)

Sec. 10-543. Hearing.

The owner of a lot or parcel subject to abatement under this article may request a hearing by notifying the neighborhood protection official within ten days following the date the city mails the required notice. The hearing shall be conducted by a hearing official designated by the chief of police for the purpose of determining whether the conditions constitute a public nuisance under the provisions of this article. Unless notice is waived by the owner, the owner shall be provided written notice of the time and place of the hearing at least ten days prior thereto. At the hearing, the owner and the neighborhood protection official may present any evidence relevant to the proceedings, in accordance with reasonable rules adopted by the chief of police and subject to approval by the city attorney. If the hearing official finds that conditions constituting a nuisance hereunder exist, the hearing official shall issue an order so stating.
(Ord. No. 94-1163, § 2, 11-2-94; Ord. No. 98-613, § 47, 8-5-98; Ord. No. 02-528, § 14i., 6-19-02; Ord. No. 04-1075, § 7, 10-20-04)

Sec. 10-544. Abatement by the city; expenses and liens.

If the owner fails to timely abate the visual blight or request a hearing, or if it is determined at a hearing that the condition of the property constitutes a nuisance under this article, then the city shall be authorized to carry out the abatement thereof and to assess its expenses and place a lien in the same manner as provided in article XI of this chapter.
(Ord. No. 94-1163, § 2, 11-2-94)

Sec. 10-545. Hardships.

(a) An owner who demonstrates to the neighborhood protection official that his structure has been subjected to visual blight shall be provided sufficient paint materials to cover the visual blight on the blighted structure on the property. The materials will typically be from donated sources or bulk purchases and the paint may not match the existing background surface color. The owner shall have ten days following receipt of the paint materials to abate the visual blight.

(b) In addition to the relief authorized in subsection (a), if the owner demonstrates that none of the family members residing in a homestead that is the subject of a visual blight notice is able to apply the paint because of age, physical disabilities, dependent care obligations or other limitations beyond their reasonable control, then the neighborhood protection official shall cause the visual blight to be abated without cost to the owner, and no lien shall be placed on the homestead property. The operation of this subsection (b) is limited to any single family residential property that is occupied as a homestead by a "very low income family" as defined in 24 Code of Federal Regulations Section 813.102 as computed for the city for purposes of Section 8 of the United States Housing Act of 1937.

(c) Without regard to the eligibility standards described in subsections (a) and (b) above, if an owner demonstrates that (i) the property for which the owner has been given notice of visual blight hereunder has been the subject of at least two prior visual blight incidents (evidenced by either notices provided pursuant to this article or bona fide police reports) during the preceding 180 days,

and (ii) the owner complied with the requirements of this article by abating the prior visual blight within 30 days of the date of the applicable notice or police report, then the neighborhood protection official shall cause the visual blight to be abated without cost to the owner, and no lien shall be placed on the property.

(d) Each notice given under section 10-542 of this Code shall advise of the availability of the relief under this section. Applications for relief under this section shall be submitted to the neighborhood protection official in such form and with such proofs of ownership, income, disabilities, repeat occurrences and related factors as may be required to determine whether the applicant is entitled to assistance within ten days following the date the city mails the notices under section 10-542 of this Code. If the neighborhood protection official is unable to concur that the applicant is entitled to assistance, then the issue shall be scheduled for a hearing under section 10-543 of this Code, and the hearing official shall make the determination.
(Ord. No. 94-1163, § 2, 11-2-94; Ord. No. 98-613, § 48, 8-5-98)

Sec. 10-546. Landlord/tenant.

The terms of this article shall not be construed to alter the terms of any lease or other agreement between any landlord and any tenant or others relating to property that is the subject of this article; provided that no provision of any lease or other agreement shall be construed to excuse compliance with this article by any person. It is the intent of this article to identify the parties the city will hold responsible for compliance with and violations of this article, rather than to determine the rights and liabilities of persons under agreements to which the city is not a party.
(Ord. No. 94-1163, § 2, 11-2-94)

Secs. 10-547—10-550. Reserved.

ARTICLE XV. DEED RESTRICTION COMPLIANCE*

Sec. 10-551. Definitions.

As used in this article the following words or phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building permit means a permit issued by the city under the provisions of the Construction Code.

City attorney means the city attorney or any assistant city attorney.

Commercial building means any building other than a single family residence.

Recorded restriction means a restriction that is contained or incorporated by reference in any properly recorded plan, plat, replat or other instrument affecting a subdivision or that portion of a subdivision located inside the boundaries of the city.

Restricted subdivision means a subdivision of land or that portion of a subdivision within the city limits that is subject to recorded restrictions.

Restriction means a limitation that:

(1) Affects the use to which real property may be put;

(2) Fixes the distance that a structure must be set back from property lines, street lines, or lot lines; or

(3) Affects the size of a lot or the size, type and number of structures that may be built on the lot;

however, restrictions do not include provisions that restrict the sale, rental, or use of property on the basis of race, color, religion, sex, or national origin and do not include any restrictions that by their express provision have terminated.

Restriction suit means a lawsuit filed in a court of competent jurisdiction to enjoin or abate the violation of a recorded restriction.
(Ord. No. 94-1154, § 2, 10-26-94; Ord. No. 02-399, § 42, 5-15-02)

*Note—See the editor's note to art. XIV.

Sec. 10-552. Compliance; enforcement; penalties.

(a) An owner or owner's representative with control over the property that is subject to a recorded restriction who, after notice of the provisions of this article, fails to comply with any recorded restriction shall be deemed to civilly violate this article and shall be subject to civil penalties of not more than $1,000.00 per day for violation of this article. Each day of noncompliance shall constitute a separate violation.

(b) It shall be unlawful to use any property or construct or continue to construct any building or structure on any property, that is the subject matter of an affidavit required by this Code as a condition for the issuance of any city permit if (1) the activity that is the subject of the affidavit is a violation of one or more recorded restrictions and (2) the person who signed the affidavit swore that the activity did not violate any recorded restriction.
(Ord. No. 94-1154, § 2, 10-26-94)

Sec. 10-553. Action by city attorney.

(a) The city attorney is authorized to file or become a party to a restriction suit; provided, however, that after a careful investigation of the facts and of the law, or of either, if in the opinion of the city attorney no legal cause of action could be alleged and proved, then in such event, the city shall not file or become a party to a suit. The city attorney is further authorized, as part of a restriction suit, to seek to compel the repair or demolition of any structure or portion thereof that is in violation of this article to the extent of noncompliance.

(b) The city attorney is authorized to file suit in a court of competent jurisdiction to seek civil penalties for the violation of subsection (a) of section 10-552 of the Code as authorized by subchapter B of chapter 54 of the Texas Local Government Code, as amended.

(c) The city attorney is authorized to establish guidelines for any activity or category of activity that the city attorney, in his best legal judgment, believes is the appropriate subject for an action to abate or enjoin pursuant to this article.

(d) All authority granted to the city attorney under this section shall be exercised uniformly on behalf of and against all citizens and property in the city.
(Ord. No. 94-1154, § 2, 10-26-94)

Sec. 10-554. Limitations.

(a) The city attorney shall have no authority to file a restriction suit or intervene in a pending restriction suit on behalf of the city upon the complaint or request of a person who:

(1) Is a defendant in a currently pending restriction suit filed by the city attorney;

(2) Is a defendant in a restriction suit in which the city attorney has intervened on behalf of the city to enforce the recorded restrictions;

(3) Has applied for a building permit for a commercial building in a restricted subdivision located in the city that has recorded restrictions the terms of which prohibit or exclude the construction or repair of commercial buildings in such subdivision; or

(4) Has filed suit to invalidate or otherwise void any portion of the recorded restrictions of a subdivision that requires the property owned by the complainant to be used for residential purposes only.

(b) The building official shall have no authority to refuse or revoke a building permit for a commercial building located in a restricted subdivision located in the city on the grounds that the construction or repair of such commercial building is prohibited or excluded by the recorded restrictions upon the complaint or request of a person who:

(1) Is a defendant in a currently pending restriction suit filed by the city attorney;

(2) Is a defendant in a restriction suit in which the city attorney has intervened on behalf of the city to enforce the recorded restrictions;

(3) Has applied for a building permit for a commercial building in a restricted subdivision that has recorded restrictions that

prohibit or exclude the construction or repair of commercial buildings in the subdivision; or

(4) Has filed suit to invalidate or otherwise void any portion of the recorded restrictions of the subdivision that requires the property owned by the person to be used for residential purposes only.

(Ord. No. 94-1154, § 2, 10-26-94)

Sec. 10-555. Building permits.

The city attorney shall advise the building official whenever, in the city attorney's opinion, building work is being done under a building permit that is void. Upon that advice the building official shall order the building work stopped. The city attorney and the building official, acting in good faith and for the city in the discharge of their duties under this section, shall not thereby render themselves liable personally and they are hereby relieved of all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of their duties.

(Ord. No. 94-1154, § 2, 10-26-94)

Secs. 10-556—10-600. Reserved.

ARTICLE XVI. ADOPT-A-LOT PROGRAM

Sec. 10-601. Definitions.

As used in this article, the words and terms defined in this section shall have the meanings ascribed, unless the context clearly indicates another meaning:

Department means the police department or its successor.

Director means the director of the department or any other person who is specifically designated in writing by the director to perform any function under this article on behalf of the director of the department.

Program means the adopt-a-lot program, as established under this article.

(Ord. No. 99-1380, § 2, 12-21-99; Ord. No. 02-528, § 14j., 6-19-02; Ord. No. 04-1075, § 8, 10-20-04)

Sec. 10-602. Powers and duties of the director.

(a) The director has responsibility for the enforcement of this article, as more particularly provided herein.

(b) The director shall promulgate written applications for volunteer organizations and community groups to participate in the program. The director shall determine the criteria required for an organization or a group and its members to be authorized to participate in the program in accordance with those criteria established in sections 10-603 and 10-604 of this Code. The director shall reject an application if the applicant does not meet all of the established criteria for participation in the program.

(c) The director upon approval of the applications of civic organizations and community groups shall authorize the members of such organizations and groups to act as volunteer independent contractors for the purpose of abating violations of article XI of this chapter relating to weeds, brush, rubbish, and other objectionable, unsightly, and insanitary matter located on abandoned or vacant private property within the city, after prior notification to the property owner by the director.

(d) The director shall provide the following services:

(1) Determine the lots to be adopted in the area served by each organization or group;

(2) Perform the initial abatement on the selected properties;

(3) Provide safety training regarding the use of the tools and equipment to the organization or group;

(4) Provide limited accident and disability insurance to the organization or group to cover the program participants;

(5) Provide limited types of city tools and equipment for use by each organization or group;

(6) Document the work performed by each organization or group; and

(7) Provide such other assistance as the director may determine is required or necessary.

(Ord. No. 99-1380, § 2, 12-21-99)

Sec. 10-603. Duties of the volunteer civic organizations and groups.

(a) Each volunteer civic organization or group shall agree to be responsible for the general maintenance, storage, and security of the city's equipment.

(b) Each volunteer civic organization or group shall agree to participate in the program for a minimum of two years.

(c) Each volunteer civic organization or group shall demonstrate the ability to carry out its duties under the program, including:

(1) Community support;

(2) Adequate number of volunteers; and

(3) Technical ability of volunteers to operate equipment.

(Ord. No. 99-1380, § 2, 12-21-99)

Sec. 10-604. Duties of the members of the volunteer civic organizations and groups.

(a) The members of each volunteer civic organization or group shall agree to hold the city harmless and release the city from any and all liability with respect to the program and their participation in the program in excess of the insurance coverage under section 10-602 (d)(4) of this article.

(b) The members of each volunteer civic organization or group shall agree to abide by all applicable laws and regulations and all terms, conditions, and guidelines imposed by the director.

(c) The members of each volunteer civic organization or group shall agree to be responsible for supervising and carrying out the details of the work they perform.

(Ord. No. 99-1380, § 2, 12-21-99)

Sec. 10-605. Contract.

The director shall promulgate a written contract in a form approved by the city attorney to be executed by the members to evidence the provisions of sections 10-603 and 10-604 of this Code.

(Ord. No. 99-1380, § 2, 12-21-99)

Secs. 10-606—10-1000. Reserved.